



VILLAGE OF WAUCONDA POLICIES AND PROCEDURES RELATING TO THE USE OF TAX INCREMENT FINANCING

Adopted May 6, 2014

I. PURPOSE

- A. The purpose of this document is to provide a general guideline for the Village of Wauconda to offer Tax Increment Financing (TIF) Assistance for development activities in its Tax Increment Financing District. None of the contents of this document are to be construed as obligating the Village to provide TIF financial assistance. Financial assistance, when granted shall be only pursuant to a written re-development agreement executed by the Village and the re-developer.
- B. The Village of Wauconda will consider using TIF funds to assist private developments to fund public improvements and other TIF qualified projects, which contribute to an expanded tax base and retail business development.
- C. These Policies and Procedures shall be used only as guidelines for making application for TIF assistance and in the processing and reviewing the applications. The Village shall have the option of amending or waiving any portion of these policies and procedures when determined necessary or appropriate. In amending or waiving any portion of these policies or procedures, the Village shall document the reason for the deviation in the applicable project's re-development agreement.
- D. TIF financial assistance is not a grant or a gift of money. TIF financial assistance is essentially a partial repayment to the applicant of a portion of the qualified costs expended by the applicant in furtherance of the applicant's re-development project.

II. DESCRIPTION OF TAX INCREMENT FINANCING (TIF)

Under the tax increment financing program, the increase in assessed valuation and tax revenues attributed to this increase from the new development is utilized to provide monetary assistance for eligible new development costs and in furtherance of the Village's Re-development Plan governing the TIF District. The tax increment is the difference in assessed valuation and tax revenues generated by the property in the district after construction compared with the assessed valuation and tax revenues generated by the property before construction at the time of "certification". This tax revenue is deposited directly into a fund controlled by the Village to be utilized exclusively to assist with eligible (qualified) re-development costs. Tax revenues from pre-TIF assessed value continue to go to all taxing districts at the same predevelopment levels.

III. GENERAL POLICIES FOR THE USE OF TAX INCREMENT FINANCING

- A. **Private Investment:** Qualified TIF incremental fund assistance may be provided only to projects where private investment dollars are used to front the costs of public improvements and other TIF qualified improvements.
- B. **Pay-as-you go:** If provided, TIF incremental fund assistance will be provided by the Village only on a "pay-as-you-go" contract method. Requests for up-front financing may be considered on a case-by-case basis if a significant up front financial commitment is provided by an applicant and based on the level of TIF annual incremental revenues to be generated by the project is forecasted to be sufficient to meet initial financing and debt service costs.
- C. **Redevelopment Agreement:** A "Re-development Agreement" is required to be adopted by Ordinance by the Village Board that will state with clarity the exact terms and conditions regarding any TIF incremental fund assistance. Such agreement may be approved concurrent with approval of development plans and zoning entitlements or based on two separate schedules. In event of there being two separate agreements the Village will issue a "Letter of Understanding" in lieu of a development agreement. As the Re-development Agreement is intended to encapsulate both the terms of the TIF along with the terms of development. The issuance of a Letter of Understanding by the Village shall not constitute any zoning entitlements or plan approvals nor shall it obligate the Village to provide TIF financial assistance until or unless a final Re-development Agreement is approved by the Village and executed by the re-developer.. A Letter of Understanding represents the Village's preliminary determination that a project per its submitted application may qualify to some extent, as defined in the document, for TIF incremental fund assistance. A Letter of Understanding shall be not be construed to replace the requirement of an approved Re-development Agreement, and it does not represent any contractual obligation of the Village to provide TIF incremental fund assistance. Only the final approved written Re-development Agreement provides the binding terms and conditions regarding the availability, and utilization, of TIF incremental fund assistance. To have any effect, a Letter of Understanding issues pursuant to this Paragraph "C" must be signed by a duly authorized officer of the Village and by a duly authorized officer of the applicant.
- D. **Financial Feasibility:** Assistance will not be provided to a project that does not show financial feasibility to sustain the project for the minimum time required for the Village to recapture through site-specific incremental tax revenues all, or a Village-determined portion of, the TIF incremental fund assistance provided. The applicant shall provide any market and financial feasibility studies, appraisals or other related information provided to private lenders for the project as well as any reasonably relevant information or data which the Village may require in order to review the need for assistance and the feasibility of recapture of TIF financial assistance.
- E. **Ability to Perform:** The applicant must be able to demonstrate, to the Village's satisfaction, an ability to construct, operate and maintain the proposed project based upon past experience, general reputation and credit history.
- F. **Equity Investment:** Applicants requesting assistance must demonstrate, to the satisfaction of the Village, sufficient cash equity investment in the project.

- G. **Financial Guarantees:** If requested by the Village, the applicant shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to, assessment agreements, letters of credit, cash escrow and personal guarantees.
- H. **Extraordinary Demands upon Services:** TIF incremental fund assistance will not be used for projects that place extraordinary demands on Village infrastructure or services. However, proposed re-development projects which include payment to the Village for such extraordinary impacts or demands may be considered for TIF assistance.
- I. **Ownership:** The applicant must retain ownership of the re-development project long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate payment of taxes based on the increased re-development project value. The Village may limit the transfer of ownership to firms with comparable financial and management capacity as the original applicant. TIF assistance cannot be provided to re-development projects which are exempt from ad valorem property taxes. TIF assistance obligations will be discontinued if an initially taxable and completed re-development project later becomes exempt from ad valorem property taxes.
- J. **Reimbursement Time Limit:** The schedule for the reimbursement of TIF incremental fund assistance will be as determined in the Re-development agreement, but it shall not extend beyond the lifetime of the TIF District.
- K. **Reimbursement Schedule:** The schedule of TIF incremental fund assistance shall not be at an annual rate that is greater than the amount of the TIF District incremental, annual property tax revenue generated by a applicant's project as may be limited by the final application of the "General Guidelines for Reimbursement of Actual Costs of Qualifying Private Site Improvements" contained in Part V of these Policies and Procedures.
- L. **Decreases of Increment Revenues:** Any decreases in the TIF annual incremental revenues generated by a project may result in the decrease or termination of the reimbursement of costs.
- M. **Look Back Provision:** Projects receiving assistance will be subject to a "look back" provision. The look back will require the applicant to provide certified records of project costs and revenues, including lease agreement within a specified period after project completion. Adjustments to the level of assistance will be made to limit assistance in accordance with the Re-development Agreement.
- N. **Audited Financial Statements:** The applicant must submit audited financial statements for the last three (3) years. If the audited statements are comparative, only two (2) years are needed. If audited statements are not available, three (3) years of annual financial statements and summary schedules for other projects completed or started within the three (3) year timeframe covered by the financial statements must be submitted. The applicant must also submit an interim financial statement for the current year. Upon request the Village may permit these documents to be provided to an independent financial consultant of the Village's choosing in order to protect propriety or confidential information.
- O. **Financing:** If construction or mortgage financing is used by the Applicant, the applicant shall, upon request from the Village, submit a copy of its financing commitment from its lender.

- P. **Qualified Project Costs:** Tax incremental fund assistance will only be provided for those costs as allowed under the Tax Increment Allocation Redevelopment Act, as amended, and as detailed under Sections IV, V, and VI of this document.

IV. QUALIFIED PUBLIC IMPROVEMENT COSTS:

- A. Qualified public improvements include only those infrastructure improvements developed and dedicated to the Village or, when specifically approved by the Village, and other governmental/public entity. Private costs for new buildings and many site improvements are not included as qualified public improvements. Section V. below addresses eligible private improvements. The following is a list of eligible public improvements:
- a. utility construction (sanitary sewer, storm sewer and water)
 - b. streets and roads
 - c. parkway improvements (landscaping, street lighting, etc)
 - d. curb and gutter
 - e. sidewalks
 - f. wetland mitigation
 - g. shared storm water management facilities
 - h. public utility (gas, electric, cable, telecommunication)
- B. Reimbursable public improvement costs shall only include actual hard construction costs for the improvements (e.g. materials, construction labor, purchase price of public property and easement acquisition, etc.). Reimbursements shall be made only in accordance with the re-development agreement.
- C. Soft costs associated with public improvements (e.g. financing, legal, holding costs, etc.) do not qualify for reimbursements.
- D. Improvements are consistent with the Village Comprehensive Plan and Economic Development goals and objectives.
- E. Public improvements will be designed and installed completely by the applicant consistent with Village Specifications.
- F. Public improvement costs shall be reviewed and approved by the Village Engineer prior to construction and installation and prior to commitment for funding assistance.
- G. Reimbursement of costs will only occur after the construction, installation, and acceptance of the public improvements by the Village or applicable governmental/public body and in accordance with the re-development agreement.
- H. The total value of reimbursements will be as determined in the Re-Development Agreement, but in no way shall exceed one-hundred percent of the total value of hard construction costs for public improvements.

V. QUALIFIED PRIVATE IMPROVEMENT COSTS:

- A. Eligible private site improvements include only those that may directly benefit the public or the overall development and function of the TIF District as a whole. The following is a list of potentially eligible private improvements:
- a. drive aisles and parking lots
 - b. bike path and sidewalk connections
 - c. parking lot lights
 - d. building demolition
 - e. plaza and courtyards
 - f. brown field remediation
 - g. existing building demolition
 - h. consolidation of individual ownerships and separate parcels
 - i. site environmental remediation
- B. Reimbursable site improvement costs shall only include actual hard construction costs for the improvements (e.g. materials, construction labor, public property and easement acquisition, etc.).
- C. Soft costs associated with site improvements (e.g. financing, legal, holding costs, etc.) do not qualify for reimbursements.
- D. Improvements are consistent with the goals and objectives of the Village Comprehensive Plan, Strategic Plan and Design Guidelines.
- E. Site improvements will be designed and installed completely by the applicant.
- F. Site improvement costs shall be reviewed and approved by the Village Engineer prior to construction and installation.
- G. Reimbursement of costs will only occur after the construction, installation, and approval of the improvements.
- H. The applicant agrees to maintain site improvements in good condition in perpetuity and replace any significantly deteriorated or damaged improvement unless waived by action of the Village Board. Any transfer of ownership of a project's property shall include a covenant agreeing to such terms unless waived by action of the Village Board.
- I. The applicant, when required, shall provide covenants guaranteeing, via appropriate legal measures and documents, the rights to shared facilities of the parties to be benefited by the qualified improvements.
- J. The actual total amount of reimbursements will be as determined in the Re-development Agreement. For most projects, not more than 25 percent of the total project cost will be supported by TIF incremental fund assistance. Total project cost is the cost of development of the project including all land, site and public infrastructure, and site amenity costs necessary for operating a commercial development. In addition to the general limitations with respect to total project costs, TIF incremental fund assistance will not normally exceed 50 percent of the

incremental Village revenue to be generated by commercial uses, and will be limited to a ten (10) year period. Financial assistance shall not be used to finance interest on the developer's invested cost to which the incentive is being applied.

VI. OTHER SPECIAL PURPOSE PROGRAMS:

TO BE DETERMINED (e.g. Retail Oriented Loan/Grant, Rehabilitation Loan/Grant, etc.).

VII. APPLICATION PROCESS AND PROCEDURE.

Application for TIF incremental fund assistance shall be made on the forms provided by the Village. In order for a project to be considered for TIF assistance, the following steps and procedures are required to be followed:

1. Applicant project must be located within the boundary of the TIF district.
2. Applicant must complete and return the appropriate application forms.
3. Application should be supplemented by all pertinent documentation (i.e. number of jobs to be created/retained, total amount of investment, construction schedule, evidence of project financing, etc.) as stated in the application.
4. Completed applications will be submitted to the Director of Building, Planning & Zoning for review and comment. Incomplete forms will be returned to the applicant with an explanation on additional information as may be required.
5. After acceptance of the application and necessary documentation, sufficient copies of the documents shall be provided to the Director of Building, Planning & Zoning for distribution to a Village Review Team.
6. The Village Review Team shall consist of the Village Administrator, Director of Finance, Director of Economic Development, Director of Building, Planning and Zoning, Director of Public Works, Village Attorney and the Chairperson of the Village Economic Development Committee. The Village Review Team will review and consider the application and act upon it as promptly as possible. The Review Team may defer action on any application pending further information required to clearly evaluate the proposed project. It shall be the responsibility of the applicant to supplement the application with information as may be required by the Village in a timely manner. The Review Team will provide a recommendation to the Village Economic Development Committee.
7. With the submittal of the Village Review Team's recommendation to the Village Economic Development Committee (EDC), the Village EDC will hold a review meeting to evaluate the application and make a recommendation to the Village Board as to the suitability of the proposed project for TIF incremental fund assistance. The Village EDC will evaluate the completeness of the application and may defer action on any application pending further information required to clear evaluate the proposed project. It shall be the responsibility of the applicant to supplement the application with information as may be required by the Village in a timely manner. The Village EDC will issue its recommendation of approval or denial based on a simple majority vote to the Village Board regarding the application with its findings based the evaluation criteria outlined in Section VI.

8. Upon verification that the application is complete and considered to be in order for Village Board review and consideration, the application will be submitted to the Village Board. Village Board majority vote approval is required before any incremental property tax usage can be utilized.
9. If approved by the Village Board, a "Letter of Understanding" or a Re-development Agreement outlining the specific terms and conditions of the TIF incremental fund assistance will be drafted by Village staff for review with the applicant. Final terms and wording of any document will be negotiated at the staff level with Village Board review and recommendations on any changes or revisions.
10. A final "Letter of Understanding" or Re-development Agreement will be forward to the Village Board for adoption.
11. For a "Letter of Understanding", a formal Development Agreement will need to be reviewed, drafted, and approved by the Village Board subsequent to any Planning and Zoning development entitlement approval process.
12. Submit detailed proforma.

VIII. PROJECT EVALUATION CRITERIA

The amount and rate of TIF incremental fund assistance shall in part be commensurate on proving a project provides public benefit consisting in part or all of the following criteria:

1. Increases Equalized Assessed Value for the developed property.
2. Increases Retail Sales Tax Revenue to the Village.
3. Increases or retains permanent job opportunities within the Village.
4. Meets the goals and objectives of the Village Comprehensive Plan.
5. Meets the Village's Strategic Planning goals and objectives.
6. Is consistent with the Village Design Guidelines
7. Meets a specific community benefit, need, or good which is not sufficiently provided for in the Village currently.
8. Enhances the visual and cultural character of the Village.
9. Provides verifiable evidence of financial and market support.
10. Provides potential meaningful and synergistic planning, cultural, educational or economic, benefits to additional sites or enterprises within the Village.

RISKS TO APPLICANT. ANY CONTRIBUTIONS MADE BY APPLICANT OR OTHERS .IN ANTICIPATION OF REIMBURSEMENT FROM TAX INCREMENTS SHALL NOT BE, NOR CONSTRUED TO BE, FINANCIAL OBLIGATIONS OF THE VILLAGE OF WAUCONDA. APPLICANT SHALL BEAR ALL RISKS ASSOCIATED WITH REIMBURSEMENT INCLUDING: INCORRECT ESTIMATES OF TAX INCREMENT, CHANGES IN TAX RATES OR TAX COLLECTIONS, CHANGES IN STATE LAW OR INTERPRETATIONS THEREOF, CHANGES IN MARKET OR ECONOMIC CONDITIONS IMPACTING THE PROJECT, CHANGES IN INTEREST RATES OR CAPITAL MARKETS, CHANGES IN DEVELOPMENT CODES REQUIREMENTS, DEFAULT BY TENANTS, UNANTICIPATED EFFECTS COVERED UNDER LEGAL DOCTRINE OF FORCE MAJUERE, AND/OR OTHER UNANTICIPATED FACTORS.